



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JUN 03 2014

REPLY TO THE ATTENTION OF:

C-14J

L. Nichole Sangha
Assistant Attorney General
Environmental Bureau North
Illinois Attorney General's Office
69 W. Washington St., Suite 1800
Chicago, IL 60602

Roy M. Harsch, Esq.
Drinker Biddle & Reath LLP
191 N. Wacker Drive, Ste. 3700
Chicago, IL 60606-1698

Re: U.S. v. The City of Rock Island and State of Illinois
Agreement to Modify Long Term Control Plan under Consent Decree

Dear Ms. Sangha and Mr. Harsch:

This letter memorializes an agreement between the U.S. Environmental Protection Agency ("EPA"), the City of Rock Island, Illinois ("City"), and the State of Illinois (collectively, "the Parties"), to modify the City's Long Term Control Plan ("LTCP"), developed for the control of combined sewer overflows ("CSOs") and currently being implemented pursuant to the Consent Decree in the matter of U.S. v. The City of Rock Island and State of Illinois (Civil Action No. 4:00-CV-04076), entered August 21, 2003, in the U.S. District Court for the Central District of Illinois. The LTCP was required by Paragraph 7 of the Consent Decree.

The LTCP, as submitted to EPA for approval on June 30, 2006, described a number of remedial alternatives to address CSOs and other issues pertaining to the City's sewer system and wastewater treatment plant. To address a surface flooding problem at the intersection of 40th Street and 5th Avenue (near the Farmall railroad viaduct), the City included an underground, 1.7 million gallon ("MG") storage tank ("Farmall Storage Tank") project as part of all of the CSO remedial alternatives set forth in the LTCP. See LTCP Sections 4.2.1 and 6.2.2, and Tables 4.3 and 4.6. EPA approved the LTCP by letter dated April 1, 2008. As approved, the LTCP became incorporated by reference as part of the Consent Decree by operation of Paragraph 17 of the Consent Decree. In February, 2012, the City developed a Facility Plan for the Farmall Storage Tank construction project and submitted it to the Illinois Environmental Protection Agency ("IEPA") as part of the requirements of IEPA's State Revolving Fund loan program. The Facility Plan described the storage volume of the tank to be a minimum of 1.1 MG. The

City now proposes a modification to the LTCP under Paragraph 89 of the Consent Decree whereby the design storage capacity of the Farmall Storage Tank would be amended from 1.7 MG to 1.1 MG.

The proposed change from 1.7 MG to 1.1 MG in storage capacity is based on addition of certain other, already-constructed LTCP projects to the City's combined sewer collection system Storm Water Management Model ("SWMM model"), and on designing the Farmall Storage Tank using a 10-year critical duration storm event (2 hour storm). The original volume was based on use of a then-existing SWMM model without any LTCP updates, and use of a 10-year, 1 hour storm event. Using the more refined SWMM model and a 10-year, 2 hour storm event, 1.1 MG in storage capacity is expected to achieve the same level of performance as was expected for 1.7 MG in storage capacity. EPA, the City, and the State of Illinois hereby agree to the modification of the Farmall Storage Tank from 1.7 MG to 1.1 MG in storage capacity.

As part of the LTCP, the Parties further agree that the City will engage in the activities described in further detail in its letter of May 20, 2014 to EPA, consisting of (1) signage at the Farmall railroad viaduct warning residents of potential flooding hazards, (2) continuation of the City's rain garden program (specifically, continuing the subsidies portion of the program for the next five years, and continuing the educational components of the program for the life of the Consent Decree), and (3) continuation of the Rock Island Drainage Assistance Program for the next five years. The May 20, 2014 letter is attached and incorporated by reference.

Paragraph 89 of the Consent Decree states: "There shall be no material modification of this Consent Decree without written approval by all parties to this Consent Decree and the Court. Any modification to this Consent Decree shall be in writing and signed by the parties and, except for modifications to the plans and schedules developed under this Consent Decree, shall be filed with the Court."

The Parties concur that this modification is not a material modification, and need not be approved by the Court. The Parties further concur that it is a modification to a plan (namely, the LTCP) that must be in writing and signed by the Parties, but need not be filed with the Court.

Each Party's assent to this agreement is indicated by the attached signature page for each respective Party.

Agreement by EPA to this modification shall not be construed as waiver of, or insulation for the City from, any future enforcement for any violation associated with any overflow event at the Farmall railroad viaduct discharge point. Nothing in this agreement shall be construed to modify any other terms and conditions of the approved LTCP or the Consent Decree, which shall remain in full force and effect.

Please sign and return your respective signature pages to me. I will then forward fully-executed copies to each of you for your files.

I may be reached at (312) 353-6181 or chow.kevin@epa.gov if you have any questions. Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Chow", with a long, sweeping horizontal line extending to the right.

Kevin Chow
Associate Regional Counsel

Attachments:
May 20, 2014 Letter
Signature Pages



Mr. Roy Harsch
Drinker Biddle & Reath LLP
191 N. Wacker Dr.
Suite 3700
Chicago, IL 60606-1698

May 20, 2014

**RE: Farmall Storage Tank
Combined Sewer Overflow Long Term Control Plan
City of Rock Island, IL
Symbiont Project No. W111073**

Dear Mr. Harsch:

Following our conference call with USEPA on September 20, 2013 regarding the size of the proposed Farmall Storage Tank included in the City of Rock Island's (City) Combined Sewer Overflow (CSO) Long Term Control Plan (LTCP), the City offers the following as a concession for reducing the size of the storage tank from that included in the original CSO LTCP:

1. Continue the City's rain garden program for the next five years at a potential cost of \$20,000 per year (\$100,000 total). The Rain Gardens for Rock Island Program is intended to enhance neighborhoods and educate the citizens of Rock Island on the benefits of rain gardens. Citizens who install a rain garden on their property will be reimbursed based on the total square footage of the rain garden at the rate of \$4 per square foot up to \$3,000. If a rain barrel can be incorporated into the rain garden, the City will supply one free of charge.

In addition, the City will keep educational information regarding the rain garden program available for citizen review through informational pamphlets and the City's website for the duration of the Consent Decree regardless of the program's funding status.

2. Continue the City's Drainage and Assistance Program for the next five years at a potential cost of \$10,000 per year (\$50,000 total). The Rock Island Drainage Assistance Program (RIDAP) is a partnership between the City and private property owners who have damage on their property caused by stormwater from more than just their property. Citizens who install drainage improvements to manage the stormwater flow and mitigate the damage will be reimbursed up to 75% of the project cost not to exceed \$3,000 per property.
3. Install signs at the Farmall Viaduct warning residents of potential flooding hazards at a cost of \$5,000.

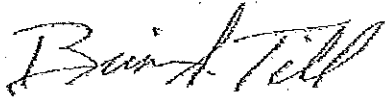
The cost of the proposed concessions totals \$155,000.

Mr. Roy Harsch
May 20, 2014
Page 2

The City is hopeful that USEPA will find this offer acceptable and that design and construction of the storage tank can move forward. Should USEPA have any questions or require additional information, please do not hesitate to contact me at 414-755-1180 or brian.till@symbiontonline.com.

Sincerely,

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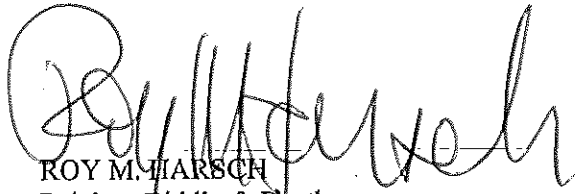


Brian A. Till, P.E.
Project Manager

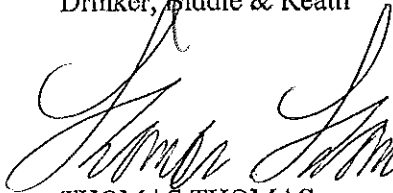
C: Mr. Randy Tweet – City of Rock Island
Mr. Mike Kane – City of Rock Island

U.S. v. City of Rock Island, Illinois and State of Illinois (Civil Action No. 4:00-CV-04076)
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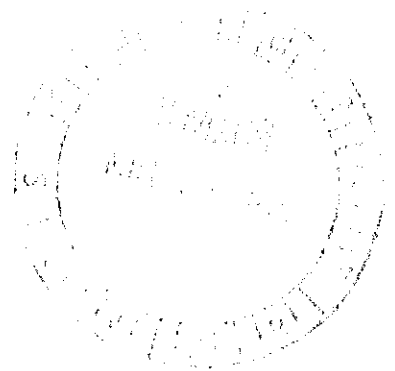
FOR DEFENDANT, CITY OF ROCK ISLAND, ILLINOIS:


ROY M. HARSCH
Drinker, Biddle & Reath

7/10/14
Date

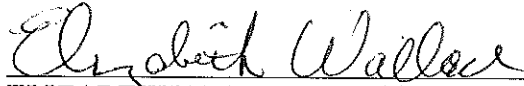

THOMAS THOMAS
City Manager
City of Rock Island, Illinois

6-30-14
Date



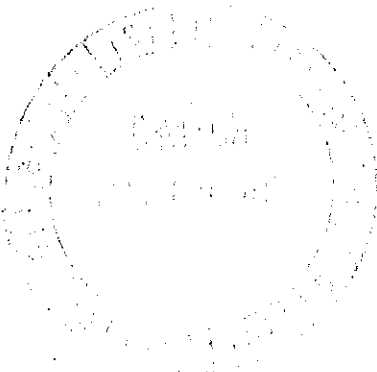
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FOR STATE OF ILLINOIS:



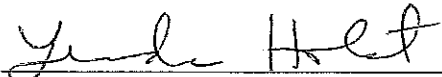
ELIZABETH WALLACE, Chief
Assistant Attorney General
Environmental Bureau North

7-1-14
Date



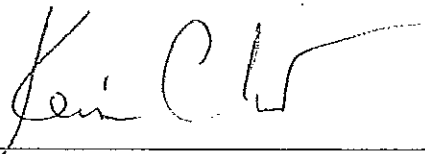
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FOR PLAINTIFF UNITED STATES OF AMERICA:

for 

TINKA HYDE
Director, Water Division
U.S. EPA, Region 5

7/24/14
Date



KEVIN CHOW
Associate Regional Counsel
U.S. EPA, Region 5

7-17-14
Date

U.S. v. City of Rock Island, Illinois and State of Illinois (Civil Action No. 4:00-CV-04076)
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FOR PLAINTIFF UNITED STATES OF AMERICA:

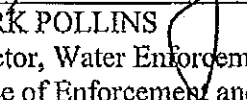
Gerard A. Brost

GERARD A. BROST
Assistant United States Attorney
Central District of Illinois

July 30, 2014
Date *J*

U.S. v. City of Rock Island, Illinois and State of Illinois (Civil Action No. 4:00-CV-04076)
Agreement to Modify Long Term Control Plan under Consent Decree

FOR PLAINTIFF UNITED STATES OF AMERICA:



MARK POLLINS
Director, Water Enforcement Division
Office of Enforcement and Compliance Assurance
U.S. EPA

6-19-14
Date